

REMARKS/ARGUMENTS

Applicants have canceled claims 1-13 and claims 25-32. Claims 14-24 remain pending. Applicants have amended independent claim 14 and dependent claims 15, 17 and 19 to better clarify the claimed inventions.

Of the pending claims, the Examiner rejected claims 14, 15, 19, 23 and 24 under §102(b) as being anticipated by US Pat. No. 6,028,689 of Michalicek et al. ("Michalicek"); rejected claims 14, 15, 19, 23 and 24 under §102(e) as being anticipated by US Pat. No. 6,512,625 of Mei et al. ("Mei"); and rejected claim 22 under §103(a) as being unpatentable over Michalicek and Mei.

Applicants respectfully assert that all pending claims are allowable in their present form because independent claim 14 includes limitations not taught or suggested by Michalicek or Mei.

Michalicek

In rejecting claims 14 and 15, the Examiner asserts that Michalicek discloses a device layer 13, a planar support layer 14 having a support surface, and a pedestal 18 that supports the device layer on the support surface. (Office action at page 5.) In Michalicek, the device layer is coupled directly to the support surface and the pedestal 18 is disposed below the support surface and the device layer.

Applicants have amended claim 14 to better clarify the claimed structure. Namely, Applicants have amended claim 14 to recite a MEMS apparatus that includes, *inter alia*, a device layer, a support surface, and a pedestal extending between the support surface and the device layer. In Michalicek, the pedestal (i.e., post 18) does not extend between the device layer 13 and support surface identified by the Examiner. Therefore, this limitation is completely missing from Michalicek.

Furthermore, in the invention of claim 14, the plurality of hinges suspends the support layer from the base support for rotation about two axes. There is no other “support layer” shown in Michalicek that is suspended from a base support by a plurality of hinges. Therefore, this limitation is also neither taught or suggested by Michalicek.

Because Michalicek does not teach or suggest these limitations, it cannot anticipate nor render obvious claim 14 (or claims 15-24, which depend from claim 14). Therefore, Applicants respectfully request claims 14-24 be allowed.

Mei

In rejecting claim 14, the Examiner asserts that Mei discloses “a planar support layer (22) having a support surface” and “hinge means or elements (20) for suspending said support layer relative to said base for movement about two axes as shown in Figure 7.” Applicants respectfully disagree that Mei discloses hinge elements that allow the support layer to rotate about two axes.

Figure 7 of Mei is an exploded structural diagram that does not illustrate any movement or rotation of the support layer (22). As indicated in the Brief Description of the Drawings, Figure 7 of Mei is an exploded view of the light modulating element shown in Figures 4 and 5. (Mei at 2:3-6.) Mei does not teach or suggest that the device shown in Figures 4, 5 and 7 (i.e., light modulation element 60) rotates about two axes. Rather, Mei teaches that the light modulation element is only capable of one dimensional “up-and-down” movement. (Mei at 5:43-51.) Because the light modulation element 60 of Mei does not rotate in two axes, it cannot satisfy the limitations of claim 14 or any claim depending from claim 14 (i.e., claims 15-24).

For all of these reasons, Applicants request claims 14-24 be allowed.

CONCLUSIONS

For all of these reasons, Applicants respectfully asserts that all of pending claims 14-24 are in condition for allowance. The Examiner's early reconsideration is respectfully requested.

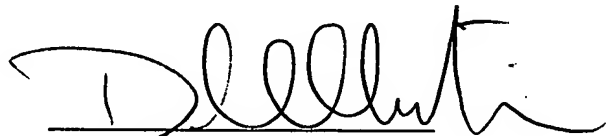
The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to **Deposit Account No. 07-1896**, and reference **Attorney Docket No. 351909-991151 (Formerly 2102393-991151)**.

If the Examiner has any questions, the Examiner is invited to contact Applicant's attorney at the following address or telephone number:

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Respectfully submitted,

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